

# In-State Tuition



According to the National Conference for State Legislature: "Immigrant families tend to fall in the lower income brackets, which means that the cost of college factors heavily in their children's ability to attend. Provision of tuition at in-state rates to those who meet residency and tax criteria could go a long way to allowing these students to contribute to their maximum potential as productive members of the community." (*National Conference of State Legislature 2004*)

According to the American Association of State Colleges and Universities (AASCU); "AASCU does not condone disregards for the nations immigration laws, but believes that the current laws discouraging or denying resident status to qualified alien students who are here through no decision of their own-rebuke our heritage as a nation of immigrants and ignore a vital source of human capital for the New Economy." (*AASCU public policy agenda 2003*)

## Background

In the 2002 legislative session, the Utah State Legislature passed into law (HB 144) sponsored by Rep. David Ure (R). It allows non-immigrant students to be exempt from paying non-resident tuition at institutions of higher education. The requirements to qualify for HB 144 are:

- Attended a high school in the state of Utah for three or more years.
- Graduate from a high school in this state or received the equivalent of a high school diploma in this state.
- Register as an entering student at an institution of higher education not earlier than the fall of the 2002-2003 academic year.
- Students without lawful immigration status shall file an affidavit with the institution of higher education stating that the student has filled an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.

During the floor debate, an amendment was included in the final version of the bill: "*If allowed under federal law.*"

In October 2002, the Attorney General's Office issued an opinion stating that it was valid and permissible for Utah's higher education institutions to implement HB 144 prior to the passage of federal law.

In the past two legislative sessions, Rep. Glenn Donnelson (R) sponsored legislation to repeal HB 144. His argument is that federal law has not been passed and that there is a possibility for litigation against the state of Utah.

## Facts

- In Utah, a total number of 117 (2003-2004) students are receiving exemption of the non-resident tuition (HB144).

### • Federal Level

In August of 2001, Senator Orrin Hatch (R-UT) and Senator Richard Durbin (D-IL) introduced S.1291 *The Development Relief and Education for Alien Minors (DREAM Act)*, which would allow students between the ages of 12 & 21 who have been in the U.S. for 5 years to apply for legal residency upon graduation from high school. Decision to grant in-state tuition to the students would be left up to the states. This bill was passed by the Senate Judiciary Committee and awaits full Senate review.

### • Education Interim Committee (Utah State Legislature)

On June 15, 2005, the members of the education interim committee voted to have Rep. Donnelson's legislation go directly to floor debate in the House and Senate in the 2006 legislative session.

### • Kansas Case

On July 5, 2005 U.S. District Judge Richard D. Rogers from Kansas dismissed the lawsuit challenging the state's law granting in-state tuition for non-immigrant students.